

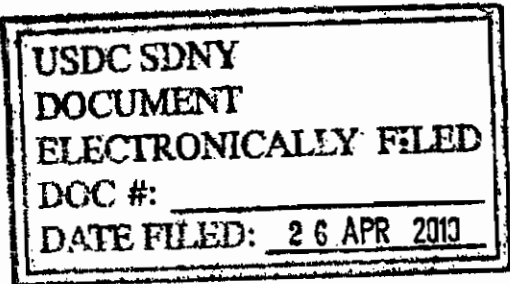
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BOBBY JOHN FLUELLEN,

Plaintiff,

-v-



No. 08 Civ. 10752 (LTS)(DFE)

SOCIAL SECURITY ADMINISTRATION
et al.,

Defendants.

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MEMORANDUM OPINION AND ORDER ADOPTING
REPORT AND RECOMMENDATION

In this action arising out of a disputed termination of his Medicare Part B premiums for October and November 2007, plaintiff Bobby John Fluellen ("Plaintiff") asserts claims against the New York State Office of Temporary and Disability Assistance ("OTDA"), the unnamed Administrative Law Judge who presided over his December 8, 2008, administrative hearing (the "ALJ") (collectively, the "State Defendants"), and the Social Security Administration ("SSA"). The State Defendants were served and have appeared by counsel in this action, whereas the SSA has never been served and has not appeared. The Court has jurisdiction of Plaintiff's claims pursuant to 28 U.S.C. § 1331.

Magistrate Judge Douglas F. Eaton has issued a Report and Recommendation (the "Report") (docket entry no. 7) recommending that this action be discontinued as moot, with no costs awarded to either side. (Report ¶ 10.) The Court has considered the Report and the submissions thoroughly. For the following reasons, the Court adopts the Report in its entirety and the case is dismissed as moot.

DISCUSSION

When reviewing the Report, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A.

§ 636(b)(1)(C) (West 2008). The Court must make a de novo determination to the extent that a party makes specific objections to a magistrate’s findings. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). When a party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error. See Pearson-Fraser v. Bell Atl., No. 01 Civ. 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003); Camardo v. Gen. Motors Hourly-Rate Employees Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992). Similarly, “objections that are merely perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original [papers] will not suffice to invoke de novo review.” Vega v. Artuz, No. 97 Civ. 3775, 2002 WL 31174466, at *1 (S.D.N.Y. Sept. 30, 2002). Objections to a Report must be specific and clearly aimed at particular findings in the magistrate judge’s proposal. Camardo, 806 F. Supp. at 381-82.

Plaintiff requested an extension of time to submit any objections to the Report until after the conclusion of an administrative hearing that he was scheduled to attend on June 16, 2009. Judge Eaton granted the request and permitted Plaintiff to submit his objections on or before June 29, 2009. (Docket entry no. 10.) Plaintiff did not submit any objections and the time to do so has expired. Accordingly, the Court reviews the Report solely for clear error and concludes without difficulty that Judge Eaton did not commit any clear error in recommending dismissal.

The relevant factual and procedural background in this action is aptly detailed in

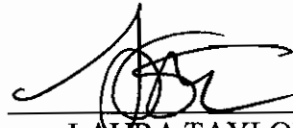
the Report. (Report ¶ 1-7.) As familiarity with the Report is assumed, the Court will not repeat that discussion here. Judge Eaton recommends dismissing the case as moot in light of his finding that Plaintiff has been paid for the amount of the two withheld premiums that gave rise to his complaint. (Report ¶ 8.) Judge Eaton's conclusion is based upon an uncontroverted factual record that the payments sought by Plaintiff have been paid. (Report ¶ 5.) Accordingly, the State Defendants have extinguished their potential liability with respect to the claims asserted in Plaintiff's complaint, and dismissal on grounds of mootness is warranted. See R.J.C. v. Carmel Cent. Sch. Dist., No. 06 Civ. 5495, 2007 U.S. Dist LEXIS 43697, *11-12 (S.D.N.Y. June 13, 2007).

CONCLUSION

For the foregoing reasons, the Court adopts Magistrate Judge Eaton's thorough and well-reasoned Report and Recommendation and dismisses this case as moot. Each party will bear its own costs. The Clerk of Court is respectfully requested to enter judgment accordingly and close this case.

SO ORDERED.

Dated: New York, New York
April 26, 2010



LAURA TAYLOR SWAIN
United States District Judge